

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Winnemucca District Office
5100 East Winnemucca Boulevard
Winnemucca, Nevada 89445

Decision Record **Effective Immediately**

DOI-BLM-W010-2012-0056-DNA

Decision:

Given the emergency nature of stabilization treatments, this decision authorizes implementation of treatments immediately under 43 CFR 5003.1.

It is my decision to approve the Buffalo Fire Emergency Stabilization and Rehabilitation (ESR) plan immediately including monitoring subject to standard operating procedures identified in the Normal Year Fire Rehabilitation Plan and Environmental Assessment #NV-020-04-21 which are hereby incorporated into this decision.

Rationale:

- 1) The proposed action is in conformance with and is consistent with the Sonoma-Gerlach Management Framework Plan (MFP).
- 2) Based on the environmental analysis, it is determined that the proposed action will not result in any undue or unnecessary environmental degradation of the public lands and is consistent with federal, state, and local laws, regulations, and plans.
- 3) The proposed action will not adversely impact any threatened or endangered species or significant scientific, cultural, or historical resources.

Conformance:

The actions proposed are in conformance with the following documents:

LUP Name*_ Sonoma Gerlach Management Framework Plan (MFP)

Date Approved__1982_____

Other document_ Winnemucca District Fire Management Plan ____

Date Approved__September 2004__

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decisions:

The proposed treatments are in conformance with **the Sonoma-Gerlach Standard Operating Procedures**, .45 Soil-Water-Air which states in part;

1. "Consider rehabilitating areas which have had protective vegetative cover destroyed by wildfire....." "Utilize seed and other watershed stabilization techniques as required."
2. "Increase existing forage by artificial methods wherever appropriate. Land treatment is defined as vegetation manipulation (i.e. plowing, burning, spraying and/or seeding)."

The proposed treatments are in conformance with the **Winnemucca Field Office Fire Management Plan, 2004**, which states:

1. "Break up monocultures through the use of chemical, biological, and/or mechanical means to stop the spread of the affected area especially in areas that border important habitats."
2. "Seed areas with perennial grass species to reduce the dominance of cheatgrass... Non-fire fuels treatments would be utilized to achieve resource goals and objectives based on site-specific habitat conditions"

Post Fire Rehab & Restoration Strategies state: "Seeding would occur on sites that do not have the likelihood of naturally recovering from a fire."

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decisions (objective, terms, and conditions):

Sonoma-Gerlach MFP (1982)

Although not specifically addressed, stabilization and rehabilitation treatments conform to wildlife and watershed objectives WL-1, which state in part; "Provide for improvement or maintenances of wildlife habitat in the planning area in order to assure that sufficient quantity, quality and diversity of habitat exists to accommodate the needs of all species of wildlife..."

Applicable National Environmental Policy Act (NEPA) documents and other related documents that cover the proposed action:

- **Vegetation Treatment on BLM Lands in Thirteen Western States Environmental Impact Statement** Record of Decision 1991.
- **Normal Year Fire Rehabilitation Plan Environmental Assessment** EA# NV-020-04-21, Decision Record and Finding of No Significant Impact 8/19/04.

- **Vegetation Treatment Using Herbicides on BLM Lands in Seventeen Western States Programmatic Final Environmental Impact Statement**, Record of Decision 9/29/07.
- **Integrated Weed Management Environmental Assessment** NV-020-02-19, Decision Record and Finding of No Significant Impact 8/27/02.

Authority:

This wildfire management decision is issued under **43 CFR 4190.1** and is effective immediately.

The BLM has made the determination that vegetation, soil, or other resources on the public lands are at immediate risk of erosion or other damage due to wildfire. Thus, notwithstanding the provisions of 43 CFR 4.21(a)(1), filing a notice of appeal under 43 CFR Part 4 does not automatically suspend the effect of the decision. Appeal of this decision may be made to the Interior Board of Land Appeals in accordance with 43 CFR 4.410. The Interior Board of Land Appeals must decide an appeal of this decision within all pleadings have been filed, and within 180 days after the appeal was filed as contained

Consultation and Coordination in Development of the DNA:

Coordination with Nevada Department of Wildlife and U.S. Fish and Wildlife, and Tribal consultation by the Native American Coordinator occurred for this project. A pre-planning field trip occurred on 07/12/2012 with the Interdisciplinary team to assess the fire area and possible treatments.

Administrative Review or Appeal Opportunities.

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to Ken Loda, Humboldt River Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make. Form 1842-1 provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is

taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California 95825-1890. Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

Preparer _____ Allison Henson /s/ Date_ _9/17/2012_____

Authorized Officer Signature

_____ Ken Loda /s/ _____ Date_____ 9/17/2012_____